

YEAS—22.

Buchanan of Grimes	Hightower,	Rainey,
Buchanan of Wood,	Lair,	Shannon,
Burgos,	Lightfoot,	Stewart,
Cooper,	Martin of Cooke,	Stubbs,
Duncan,	Martin of Navarro,	Swain,
Gooch,	Moore,	Tilson,
Harris,	Powers,	Wynno.
Henderson,		

NAYS—6.

Burton,	Houston,	Patton,
Davenport,	Lane,	Weathered.

The substitute of Senator Stubbs for the amendment of Senator Henderson, was then voted on and lost by the following vote:

YEAS—11.

Buchanan of Grimes	Houston,	Rainey,
Burgos,	Lair,	Shannon,
Cooper,	Martin of Navarro,	Stubbs.
Henderson,	Powers,	

NAYS—17.

Buchanan of Wood,	Hightower,	Stewart,
Burton,	Lane,	Swain,
Davenport,	Lightfoot,	Tilson,
Duncan,	Martin of Cooke,	Weathered,
Gooch,	Moore,	Wynno.
Harris,	Patton,	

Senator Powers offered the following amendment: After the word "Indians," at the end of last section, add "or other bands of lawless persons." Adopted.

Senator Hightower then moved to amend by striking out from first section, "close confinement in county jail for not less than three months nor more than six months," and insert "by a fine of not less than twenty-five dollars, and not more than one hundred dollars, and by close confinement in the county jail for a period of not less than ten days nor more than three months." Adopted.

Also, in third section, by striking out "close confinement in the county jail not less than six months and not more than twelve months," and insert "by fine of not less than fifty dollars, and not more than two hundred dollars, and by close confinement in the county jail for a period not less than one month and not more than six months."

Senator Swain moved to postpone the further consideration of the bill and make it the special order for Friday next. Lost.

The pending amendment of Senator Hightower was then adopted.

The President, after reading its caption, signed Senate bill No. 9, entitled "An act making an appropriation to pay the contingent expenses of the Seventeenth Legislature."

Senator Buchanan of Grimes, chairman of the Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined Senate bill No. 2, being "An act to repeal article 2234 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature."

Senate bill No. 11, being "An act to amend article 316 of the Revised Code of the State of Texas."

Senate bill No. 12, being "An act to amend articles 111 and 112 of chapter 5 of 'act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' passed at the regular session A. D. 1879."

Senate bill No. 22, being "An act to amend articles 355 and 356 of 'an act to adopt and establish a Penal Code for the State of Texas.'"

Senate bill No. 33, being "An act to repeal articles 4081, 4082, 4083, 4084, 4085, 4086, 4087, 4088 and 4089, title 82, of the Revised Civil Statutes of the State of Texas, and also an act approved April 19, 1879, entitled 'an act to amend an act entitled an act creating the office of public weigher, and regulating the appointment and defining the duties and liabilities thereof.'"

And Senate bill No. 38, being "An act to amend article 3812, title 79,

of the Revised Civil Statutes of the State of Texas, passed by the Sixteenth Legislature, February 21, 1879," and find each of the said bills correctly engrossed.

BUCHANAN of Grimes, Chairman.

The pending Senate bill No. 20 was then ordered engrossed. Senator Duncan then offered the following resolution:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of employing a short-hand writer to take the Senate proceedings in full so that the same may thus appear in the journal, and to report their conclusion to the Senate.

Referred to Committee on Public Printing.

Senator Hightower then, by leave, introduced the following bill: "An act to repeal article 1678 of an act entitled an act to adopt and establish the Revised Statutes of the State of Texas," passed by the Sixteenth Legislature." Referred to Judiciary Committee No. 1.

Also, by leave, a bill entitled "An act to amend article 1659 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature." Referred to Judiciary Committee No. 1.

Senator Lightfoot, chairman of the Committee on Federal Relations, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Federal Relations beg leave to report that they have duly considered Senate bill No. 53, entitled "An act to authorize and request the Governor to ascertain and file in the War Department of the United States, or in such other department as the matter may be referred to, a certified abstract, accompanied with proper vouchers and proofs, of the money expended and indebtedness assumed and incurred by the State of Texas in repelling invasions by Mexican and Mexican-Indian banditti, and in suppressing Indian hostilities," and your committee believe it is imperatively necessary that the State should at once take proper steps to lay before the Federal authorities the proofs and vouchers to sustain her claims against the United States for the large sums of money expended in frontier protection. And your committee instruct me to report back the bill to the Senate, with the recommendation that it do pass.

LIGHTFOOT, Chairman.

Bill read first time.

Senate bill No. 23, entitled "An act to amend article 2266, chapter 4, title 38, of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature of Texas," being the special order for this hour, was taken up.

Senator Rainey offered the following amendment: Amend by striking out the word "first" in second line, on page third of printed bill, and insert the word "appearance."

On motion of Senator Duncan, the Senate adjourned until 10 o'clock to-morrow morning.

THIRTEENTH DAY.

SENATE CHAMBER,
AUSTIN, January 25, 1881. }

The Senate met pursuant to adjournment, Lieutenant-Governor Storey in the chair.

Roll called—quorum present.

Prayer by the Chaplain.

On motion of Senator Homan, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have examined Senate bill No. 21, being "An act to amend article 1587, title 32, chapter 12, of the Revised Civil Statutes of the State of Texas;" also Senate bill No. 26, being "An act to amend article 4752, chapter 4, title 95, of the Revised Civil Statutes, adopted February 21, 1879," and find said bills correct engrossed.

BUCHANAN of Grimes, Chairman.

Senator Powers introduced a bill entitled "An act to validate certain records deposited in the General Land Office." Referred to Judiciary Committee No. 1.

Senator Burges introduced a bill entitled "An act to amend 'an act to establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' passed February 21, 1879." Referred to Judiciary Committee No. 2.

Senator Swain moved that the Senate go into the election of United States Senator at 12 o'clock M. to-day. Adopted.

Senate bill No. 23, entitled "An act to amend article 2266, chapter 4, title 38 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature of Texas," was taken up as unfinished business, with the pending amendment of Senator Rainey, which was adopted.

Senator Hightower moved the following amendment: Amend committee's amendment by striking out the same, and substituting therefor the following proviso to section 4:

Provided, That the failure of either party to file such counter affidavit shall not be construed to prohibit such party from pleading or introducing evidence in support of any plea of credits, payment or offset against the claim of the opposite party, which he might lawfully do.

Adopted.

Senator Gooch proposed the following amendment: Amend by inserting in the first section after words "account" the words "based upon contract."

Adopted, and bill ordered engrossed.

Senate bill No. 14, entitled "An act to prevent drunkenness, and temporary insanity produced by the excessive use of ardent spirits, from being plead in courts of justice in justification of criminal offenses," being the special order, was taken up.

On motion of Senator Martin of Navarro, the consideration of the bill in question was postponed ten minutes, and Senate bill No. 33, "An act to repeal the act establishing the office of public weigher, and the act amendatory thereof," was taken up, read third time, and passed by the following vote:

YEAS—24.

Buchanan of Grimes	Homan,	Rainey.
Burges,	Lair,	Shannon.
Burton,	Lane,	Stewart,
Cooper,	Lightfoot,	Swain,
Davenport,	Martin of Cooke,	Terrell,
Duncan,	Martin of Navarro,	Tilson,
Harris,	Moore,	Weatherred,
Hightower,	Patton,	Wynne.

NAYS—7.

Buchanan of Wood,	Houston,	Ross,
Gooch,	Powers,	Stubbs.
Henderson,		

The House concurrent resolution permitting Margaret Scott to keep a lunch stand in the basement of the Capitol building, was taken up, read and adopted.

On motion of Senator Homan, the consideration of Senate Bill No. 14, being the special order for to-day, was postponed until Monday next, and made the special order after the morning call.

Senator Moore, chairman of Committee on Stock and Stock-raising, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 25, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Stock and Stockraising have had under consideration Senate bill No. 25, entitled "An act to amend articles 4562 and 4566 of the Revised Civil Statutes," and instruct me to report the same back to the Senate, with the recommendation that it do pass.

MOORE, Chairman.

Bill read first time.

Senate bill No. 5, being "An act to give orders of sale foreclosing certain classes of liens upon real estate the force

and effect of writs of possession," was taken up, read the third time and passed.

Senator Cooper, chairman of Committee on Enrolled Bills, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 9, "An act making an appropriation to defray the contingent expenses of the Seventeenth Legislature," and find the same correctly enrolled, properly signed, and presented said bill to the Governor for his signature, at 11:20 o'clock A. M., January 24, 1881.

COOPER, Chairman.

COMMITTEE ROOM,
AUSTIN, January 24, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared, and find correctly enrolled and properly signed Senate Bill No. 4, "Joint Resolution regarding the port of Galveston," and at 11:20 o'clock A. M., on January 24, 1881, presented the same to the Governor for his signature.

COOPER, Chairman.

Senate Bill No. 12, being "An act to amend articles 111 and 112 of chapter 5 of an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas, passed at the regular session, A. D. 1879," was taken up, read third time and passed.

Senate bill No. 22, being "An act to amend articles 355 and 356 of 'an act to adopt and establish a Penal Code of the State of Texas,'" was taken up, read third time, and passed.

A message was received from the House announcing the passage by that body of House bill No. 7, being "An act to restrict the employment of sailors and crews of foreign vessels from rolling cotton, handling cargo, or laboring on the wharves or levees of ports in the State of Texas beyond the end of the ships' tackles." Bill taken up and referred by the President to the Committee on Commerce and Manufactures.

Senator Gooch introduced a bill entitled "An act to amend chapter 2 of title 15 of the Code of Criminal Procedure of the State of Texas, by creating article 1054a, providing for paying sheriffs' and constables' fees in felony cases where defendants are not brought to trial." Referred to Judiciary Committee No. 2.

Senate bill No. 34, entitled "An act amending article 4609, chapter 4, of the Revised Civil Code, approved February, 1879," was taken up, read third time, and bill lost by the following vote:

YEAS—5.

Harris,	Martin of Navarro,	Weatherred.
Lane,	Powers,	

NAYS—23.

Buchanan of Grimes	Hightower,	Shannon,
Buchanan of Wood,	Homan,	Stewart,
Burges,	Lair,	Stubbs,
Burton,	Lightfoot,	Swain,
Davenport,	Moore,	Terrell,
Duncan,	Patton,	Tilson,
Gooch,	Rainey,	Wynne.
Henderson,	Ross,	

NOT VOTING—3.

Cooper,	Houston,	Martin of Cooke.
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Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 25, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have examined carefully Senate bill No. 2, and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senate bill No. 38, being "An act to amend article 3812, title 79, of the Revised Civil Statutes of the State of Texas,

passed by the Sixteenth Legislature, February 21, 1879," was taken up, read third, time and passed.

Senate bill No. 2, entitled "An act to repeal article 2234 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature," was taken up.

Senator Henderson moved that it be postponed, and made the special order for Friday next. Motion lost, and bill passed by the following vote:

YEAS—17.

Buchanan of Grimes	Homan,	Stubbs,
Buchanan of Wood,	Houston,	Terrell,
Cooper,	Lane,	Tilson,
Gooch,	Lightfoot,	Weatherred,
Harris,	Moore,	Wynne.
Hightower,	Patton,	

NAYS—13.

Burges,	Martin of Cooke,	Ross,
Davenport,	Martin of Navarro,	Shannon,
Duncan,	Powers,	Stewart,
Henderson,	Rainey,	Swain.
Lair,		

NOT VOTING—1.

Burton.

A message was received from the House announcing the adoption of the following concurrent resolution:

Resolved, That a sub-committee of three be appointed by the Penitentiary Committee of the House to act in conjunction with two from the Senate, (the Senate concurring,) whose duty it shall be to visit the State penitentiaries at Huntsville and at Rusk, and to examine carefully and thoroughly into the character, condition, management, and capacity of each of said institutions, and make a report of their action to the Committee on Penitentiaries, and make such suggestions, and recommendations as they may deem fit and proper.

It shall also be the duty of said committee to inquire into and investigate all cases of alleged harsh or cruel treatment of convicts, whether within the walls of said penitentiaries, or in convict camps, or elsewhere.

The members of said committee shall have the power to issue process to compel the production of persons and papers, to administer oaths; and such committee may employ such aid as they may deem expedient or necessary; and that the expenses of such committee shall be paid out of the contingent fund.

Senate Bill No. 11, entitled "An act to amend article 316 of the Penal Code of the State of Texas" was taken up, read third time, and passed by the following vote:

YEAS—18

Buchanan of Wood,	Homan,	Stubbs,
Burges,	Houston,	Swain,
Burton,	Lair,	Terrell,
Davenport,	Lane,	Tilson,
Harris,	Moore,	Weatherred,
Hightower,	Stewart,	Wynne.

NAYS—10.

Buchanan of Grimes	Martin of Cooke,	Rainey,
Duncan,	Martin of Navarro,	Ross,
Gooch,	Powers,	Shannon.
Henderson,		

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 25, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills beg leave to report that they have examined and carefully compared Senate bill No. 20, being "An act to amend chapter 4, title 9, of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas, passed by the Sixteenth Legislature,'" and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

On motion of Senator Duncan, the Senate took a recess of five minutes.

Recess having expired, the Senate was called to order.

Roll called—quorum present.

The hour of the special order set for 12 o'clock M. to-day (the election of a United States Senator), having arrived, the

President announced the same, and that the Senate would now go into the election of a United States Senator, to succeed the Hon. S. B. Maxey, whose term of office will expire March 4, 1881.

Roll called, and two Senators absent and not answering to their names.

Senator Houston moved a call of the Senate; call sustained.

Roll called—Senate full

Senator Stewart nominated the Hon. S. B. Maxey, and seconded by Senator Terrell.

Senator Shannon nominated the Hon. J. W. Throckmorton, and seconded by Senator Lair.

The following Senators, on a call of the roll, voted for the Hon. S. B. Maxey:

Buchanan of Grimes	Henderson,	Powers,
Buchanan of Wood,	Hightower,	Stewart,
Burges,	Homan,	Stubbs,
Cooper,	Lane,	Swain,
Davenport,	Lightfoot,	Terrell,
Duncan,	Moore,	Tilson,
Gooch,	Patton,	Wynne—23.
Harris,		

The following Senators voted for Hon. J. W. Throckmorton:

Houston,	Martin of Navarro,	Shannon,
Lair,	Rainey,	Weatherred—8.
Martin of Cooke,	Ross,	

The following Senator voted for Hon. E. J. Davis:

Burton—1.

After the announcement of the result, on motion of Senator Gooch, the Senate adjourned until 10 o'clock A. M. to-morrow.

FOURTEENTH DAY.

SENATE CHAMBER,
AUSTIN, January 26, 1881. }

Senate met pursuant to adjournment; the President in the chair.

Roll called—quorum present.

Prayer by the Chaplain.

On motion of Senator Buchanan of Wood, the reading of the journal of yesterday was dispensed with and the same adopted.

Senator Davenport, for Judiciary Committee No. 1, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, January 25, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 72, being "An act to procure from the publishing house owning the copyrights, certain volumes of the early reports of the Supreme Court of the State of Texas," have had the same under consideration, and I am instructed to report back the bill with recommendation that it do pass.

DAVENPORT, for Committee.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, January 26, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 60, which has for its object to provide for a reference of cases pending in the Supreme Court and Court of Appeals to the Commissioners of Appeals for examination and report, have considered the same, and I am instructed to report it back with the accompanying amendments, with recommendation that, as amended, it do pass.

The committee are of opinion that the caption of the bill should be changed, and the act made amendatory of the act creating the commission. The object of the other amendments reported is, to continue the existence of the commission for two years from October 1, 1881, in the event a new judiciary article in the Constitution should not be submitted and adopted by the people.

It is believed that the bill will enlarge the public benefit derived from the Commissioners of Appeals, by providing for the transfer